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	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
SUSAN POZNANOVICH, Plaintiff, vs. ASTRAZENECA PHARMACEUTICALS LP, ASTRAZENECA LP, ASTRA USA, INC., KBI SUB INC., ZENECA, INC., ASTRA USA HOLDINGS CORPORATION, ASTRAZENECA, AB, ASTRAZENECA, PLC, and ASTRAZENECA, UK LIMITED, Defendants.	Civil Action No. ______________________ **NOTICE OF REMOVAL AND COPIES OF ALL PLEADINGS**

To: United States District Court
District of New Jersey
Trenton Vicinage

PLEASE TAKE NOTICE THAT Defendant AstraZeneca Pharmaceuticals LP, by counsel, and pursuant to 28 U.S.C. § § 1332, 1441, and 1446, is hereby removing the above-entitled action from the Superior Court of New Jersey, Law Division, Hunterdon County, where it is currently pending, to the United States District Court for the District of New Jersey, Trenton Division, and respectfully states as follows:

1. On or about June 24, 2011, an action was commenced in the Superior Court, of New Jersey, Law Division, Bergen County, entitled *Susan A. Poznanovich v. AstraZeneca Pharmaceuticals LP, AstraZeneca LP, Astra USA, Inc., KBI Sub Inc., Zeneca, Inc., Astra USA*

Holdings Corporation, AstraZeneca, AB, AstraZeneca PLC, and AstraZeneca, UK Limited. The action appears to have been transferred to the Superior Court of New Jersey, Law Division, Hunterdon County, Docket No. HUN-L-396-11 ("State Court Action").

2. As more fully set out below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because the procedural requirements for removal are satisfied and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

3. AstraZeneca Pharmaceuticals LP has not been served with Summons and Complaint in the State Court Action. Upon information and belief, none of the named Defendants have been served with Summons and Complaint. No further proceedings have occurred in that action. A copy of the Complaint is attached as Exhibit A. Accordingly, this Notice of Removal is timely filed.

4. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1441(b), in that the matter in controversy exceeds the sum or value of $75,000, exclusive of interests and costs, and there is complete diversity among the Defendants and Plaintiff.

5. As reflected in the Complaint, the amount in controversy in this case exceeds $75,000, exclusive of interest and costs. Specifically, Plaintiff alleges that as a result of ingesting Priolsec® and Nexium®, she suffered multiple fractures of her feet and continues to experience pain in her feet. She alleges that she has suffered mental and physical pain and suffering. She also alleges that she has sustained permanent injuries, emotional distress, and economic loss. Plaintiff seeks compensatory damages, punitive damages, treble damages,

attorneys' fees, and reimbursement for past, present, and future health and medical care costs related to her injuries. *See* Ex. A: Compl. ¶¶ 5, 67, 68, 69.

6. Plaintiff is a citizen of the State of Illinois. AstraZeneca Pharmaceuticals LP is a citizen of Delaware and New York. AstraZeneca Pharmaceuticals LP is a limited partnership organized under the laws of Delaware with its principal place business in Delaware. Its general partner is AstraZeneca AB, a Swedish public limited liability company with its principal place of business in Sweden. AstraZeneca Pharmaceuticals LP's limited partners are: Zeneca Inc., a Delaware corporation with its principal place of business in Delaware; Astra USA Inc., a New York corporation with its principal place of business in Delaware; and Astra U.S. Holdings Corporation, a Delaware corporation with its principal place of business in Delaware. AstraZeneca LP is a limited partnership organized under the laws of Delaware with its principal place of business in Delaware. AstraZeneca LP's general partner is AstraZeneca Pharmaceuticals LP. AstraZeneca LP's sole limited partner, KBI Sub, Inc., is incorporated in the State of Delaware with its principal place of business in New Jersey. AstraZeneca PLC is a public limited company incorporated under the laws of England and Wales with its principal place of business in England. AstraZeneca UK Limited is a private limited company incorporated under the laws of England and Wales with its principal place of business in England.

7. This Court has jurisdiction over this matter because none of the Defendants have been served in this action and complete diversity exists. *See* 28 U.S.C. § 1332 and 1441. As such, this case may be properly removed.

8. The court in *Thompson v. Novartis Pharms., Corp.*, decided a similar issue when the in-state defendant removed the case prior to being served with the complaint and summons.

Thompson v. Novartis Pharms., Corp., No. 06-6280, 2007 WL 1521138 (D.N.J. May 22, 2007). The *Thompson* court observed that 28 U.S.C. § 1441(b) allows a case to be removed if there is complete diversity and "if none of the parties in interest *properly joined and served* as defendants is a citizen of the State in which such an action is brought." *Id.*, at *2 (emphasis in original), quoting 28 U.S.C. § 1441(b). The *Thompson* court denied Plaintiff's motion to remand noting that the "language is unambiguous – removal is prohibited only where a defendant, who is a resident of the forum state, has been 'properly joined *and served*.'" *Id.* (emphasis in original). The court also acknowledged that "Congress plainly intended to require service of the complaint, and not just proper joinder, to trigger the preclusion of removal by the forum resident defendant in a diversity case, and it did so by including the phrase "properly joined and served" so that plaintiff could not frustrate removal of a diversity case by refraining from serving the resident defendant." *Id.* at *4.

9. Other courts in this District have also held that a Complaint may be removed if there is complete diversity and the in-state defendant has not been served. *See Bivins v. Novartis Pharms. Corp.*, No. 09-1087, 2009 WL 2496518 (D.N.J. Aug. 10, 2009) (denying plaintiff's motion to remand and holding that "[u]nder the plain meaning of the statute, removal of this case was proper because [the in-state defendant] had not yet been served when it filed its notice of removal."); *Yocham v. Novartis, et. al.*, No. 07-1810, 2007 WL 2318493 (D.N.J. Aug. 13, 2007); *Frick v. Novartis*, No. 05-5429, 2006 WL 454360 (D.N.J. Feb. 23, 2006); *but see Sullivan v. Novartis, et al*, 575 F. Supp. 2d 640 (D.N.J. 2008).

10. Undeniably, there is complete diversity and the amount in controversy has been met. Further, the in-state Defendants have not been served. As such, this case is properly removable pursuant to the plain language of 28 U.S.C. § 1441(b).

11. Copies of this removal petition are simultaneously being served upon counsel for all parties of record and the state court from which this action was removed (*see* Exhibit B, Notice of Filing Notice of Removal, without the Notice of Removal attached).

12. This Court is the proper district court for removal because the Superior Court of New Jersey, Law Division, Hunterdon County is located within the District of New Jersey, Trenton Vicinage.

WHEREFORE, Defendant AstraZeneca Pharmaceuticals LP prays that this cause proceed in this Court as an action properly removed thereto.

Respectfully Submitted,

McCARTER & ENGLISH, LLP
Attorneys for Defendant
AstraZeneca Pharmaceuticals LP

By: *s/Edward J. Fanning, Jr.*
Edward J. Fanning, Jr.
A Member of the Firm

Dated: July 12, 2011